

14-1051

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**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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Michaels Stores, Inc.

*Plaintiff-Appellant,*

v.

United States

*Defendant-Appellee.*

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Appeal From The United States Court of International Trade  
In Consolidated Case No. 12-CV-00146, Judge Jane A. Restani

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**CONSENT MOTION FOR AN EXTENSION OF TIME**

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Plaintiff Michaels Stores, Inc. ("Michaels"), pursuant to Rule 26(b) of the Federal Circuit Rules, respectfully moves this Court for an extension of time of thirty-five (35) days, from December 30, 2013 to February 3, 2014. Defendant, pursuant to Rule 31(a)(2) of the Federal Circuit Rules, would then have forty (40) days, until March 17, 2014, to file its response to Plaintiff's brief. An extension is warranted in this instance because Plaintiff was represented by different counsel at the Court of International Trade and Plaintiff's newly retained counsel needs the extra time to become familiar with this case and this record.

Defendant's counsel, Stephen C. Tosini, consented to this motion.

Plaintiff retained new counsel, Hughes Hubbard & Reed LLP ("HHR") on October 17, 2013. HHR was granted access to the Judicial Protective Order for this matter on November 14, 2013. The requested extension would grant HHR thirty-five (35) days from the current deadline

of December 30, 2013 to February 3, 2014, to file its brief. HHR needs the extra 35 days to become familiar with the record at both the Department of Commerce and Court of International Trade, including the confidential records that have only recently been received. Defendant would then have forty (40) days, until March 17, 2014, to file its brief.

This is Plaintiff's first request for an extension of this deadline. Plaintiff's new counsel assures this Court that it is moving as quickly as possible to become familiar with the documents so as to not delay this proceeding any longer than necessary. This request for an extension is accompanied by an affidavit of counsel showing good cause for this extension.

For the above reasons, Plaintiff respectfully requests that this Court grant this consent motion for extensions of time for both parties to file their briefs.

If the court has any questions regarding this submission, please contact the undersigned.

Respectfully Submitted,

/s/ Matthew R. Nicely  
Matthew R. Nicely  
**HUGHES HUBBARD & REED LLP**  
1775 I Street, Suite 700, NW  
Washington, DC 20006  
(202) 721-4750  
(202) 721-4646 (fax)  
nicely@hugheshubbard.com  
*Counsel for Michaels Stores, Inc.*

Date: December 2, 2013

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*Plaintiff-Appellant,*

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**DECLARATION OF MATTHEW R. NICELY IN SUPPORT OF PLAINTIFF'S  
CONSENT MOTION FOR AN EXTENSION OF TIME**

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Pursuant to Federal Circuit Rules 26(b)(5) and 28 U.S.C. § 1746, I, Matthew R. Nicely, declare the following:

1. I am an attorney with Hughes Hubbard & Reed LLP ("HHR"), and I am the lead attorney responsible for representing Plaintiff, Michaels Stores, Inc., in the above-captioned case.
2. The extension of time requested is necessary because a different law firm represented Plaintiff in the original proceeding. HHR was retained by Plaintiff on October 17, 2013 and has just been granted access to the confidential record under a Judicial Protective Order on November 14, 2013. The requested extension is necessary to allow HHR adequate time to complete a full review of the record and prepare a brief.

3. I contacted Defendant's counsel, Stephen C. Tosini, by email on December 2, 2013, and obtained Defendant's counsel's consent to this motion for an extension of time.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 2, 2013.



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Matthew R. Nicely

**HUGHES HUBBARD & REED LLP**

1775 I Street, Suite 700, NW

Washington, DC 20006

(202) 721-4750

(202) 721-4646 (fax)

nicely@hugheshubbard.com

*Counsel for Michaels Stores, Inc.*

FORM 30. Certificate of Service

UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on  
by:

December 2, 2013

- ☐ US mail  
☐ Fax  
☐ Hand  
☒ Electronic Means  
(by email or CM/ECF)

Matthew R. Nicely

Name of Counsel

/s/ Matthew R. Nicely

Signature of Counsel

Law Firm

Hughes Hubbard & Reed LLP

Address

1775 I Street, Suite 700, NW

City, State, ZIP

Washington, DC 20006

Telephone Number

202.721.4750

FAX Number

202.721.4646

E-mail Address

nicely@hugheshubbard.com

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